

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TIM FM,

Plaintiff,

vs.

No. CV 20-00781 MV/JHR

UNITED STATES ATTORNEY GENERAL,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Rule 41(b) of the Federal Rules of Civil Procedure on the Complaint (Federal) filed by Plaintiff Tim Fm.¹ (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with a Court order and failure to prosecute.

At the time the Complaint was filed, Tim Fm was a federal pretrial detainee at the Mercer County Jail in Aledo, Illinois. (Doc. 1 at 4). Mailings to Plaintiff Tim Fm at his address of record have been returned as undelivered. (Doc. 6, 7). A search of the Mercer County Jail records indicates that Tim Fm is no longer incarcerated at the Mercer County Jail. Similarly, no person meeting the description of Tim Fm appears in a search of the Bureau of Prisons' records. It appears

¹ "Tim Fm" is the signature used by Plaintiff on his filings. (Doc. 1). The name appears to be a pseudonym. However, the Court has used other identifying information to attempt to locate Plaintiff. The Court is not disclosing the identifying information in this Memorandum Opinion because, based on Plaintiff's filings, he may be a minor under the age of 18. Also, it does not appear that Plaintiff was charged, prosecuted, convicted, sentenced, or incarcerated in New Mexico and it is unlikely that he is eligible for any relief from a New Mexico court.

that Tim Fm has been released from custody or transferred without notifying the Court of his current address.

The Court issued an Order to Cure Deficiency on January 14, 2021, directing Plaintiff to cure deficiencies in his filing within 30 days. (Doc. 5). The Order to Cure Deficiency sent to Plaintiff at his address of record was returned as undeliverable and indicated that he is no longer at the Mercer County Jail. (Doc. 7). Plaintiff has not complied with the Court's January 14, 2021 Order and has not communicated with the Court since January 11, 2021. (Doc. 4).


Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Plaintiff Tim Fm has failed to comply with Local Rule 83.6 and with the Court's January 14, 2021 Order to Cure Deficiency. Plaintiff Tim Fm has also failed to prosecute this action by not keeping the Court apprised of his current address. The Court may dismiss an action under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute, to comply with the rules of procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Order and failure to prosecute this proceeding.

Also pending before the Court are the Application to Proceed in District Court Without Prepayment of Fees or Costs (Doc. 3) and Motion for Preliminary Injunction (Doc. 4). The Court denies the pending motions as moot in light of the dismissal of this proceeding.

IT IS THEREFORE ORDERED:

(1) the Application to Proceed in District Court Without Prepayment of Fees or Costs (Doc. 3), and Motion for Preliminary Injunction (Doc. 4) are **DENIED** as moot; and

(2) the Complaint (Federal) filed by Plaintiff Tim Fm (Doc. 1) is **DISMISSED** without prejudice under Rule 41(b) for failure to comply with the Court's order, failure to comply with the rules of procedure, and failure to prosecute.


UNITED STATES DISTRICT JUDGE